

REMARKS

Claims 4-29 are currently pending in the application. Applicants have amended claim 29. Applicants request reconsideration of the application in light of the following remarks.

Request to Admit the Amendment

Applicant believes that the foregoing amendment complies with the Examiner's requirement of form and further believes that this amendment presents the rejected claims in better form for appeal. Pursuant to 37 C.F.R. § 1.116(a), Applicant requests the Examiner admit the amendment. However, even if the Examiner decides not to admit the amendment under 37 C.F.R. § 1.116(a), Applicant respectfully requests the Examiner admit the amendment pursuant to 37 C.F.R. § 1.116(b). The foregoing amendment more clearly defines the invention described in claim 29, and still provides the necessary combination of elements for patentability. Since the invention defined by claim 29 are not adversely affected by the amendment, no new issues have been raised nor should any further search or consideration be required. Upon these good and sufficient reasons for why the amendment is necessary and was not earlier presented, Applicant requests the Examiner admit the amendment pursuant to either 37 C.F.R. § 1.116(a) or 37 C.F.R. § 1.116(b).

Indication of Condition for Allowance

Applicant wishes to thank the Examiner for the indication of condition for allowance for the above referenced application but for the few formal matters. Applicants believe that all formal matters have been resolved, that the application is in condition for allowance, and respectfully request the same.

Double Patenting Rejection

Claims 4-29 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 108-206 and 268-300 of U.S. Patent Application Ser. No. 09/578,001 to McClain et al. In order to avoid further expenses

and time delay, Applicants elect to expedite the prosecution of the present application by filing a terminal disclaimer to address the double patenting rejections in compliance with 37 CFR §1.321 (b) and (c). Applicants' filing of the terminal disclaimer should not be construed as acquiescence of the Examiner's double patenting or obviousness-type double patenting rejections. Attached is the terminal disclaimer and accompanying fee.

Applicant believes that the current claims are distinct from the claims of Ser. No. 09/578,001 for the purposes of patentability and/or interference. However, to advance prosecution, the Applicant has included the terminal disclaimer herewith to obtain immediate allowance of the present claims.

The Examiner's attention is drawn to the file history and cited references in the related applications for the purpose of confirming the allowability of the present claims in light of other Office actions and communications.

Confirmation of Allowed Claims

Applicants wish to thank the Examiner for his confirmation of the patentable subject matter of claims 4-29.

Regarding Doctrine of Equivalents

Applicants hereby declare that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

CONCLUSION


Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The amendments herein added no new claims, resulting in no fees due. However, a terminal disclaimer requiring a fee of \$65.00 has been submitted herewith. A check in the amount of \$65.00 has been included herewith for this purpose.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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